

REMARKS

Status of claims

Claims 1 to 10 have been rejected under 35 USC 103 for obviousness over Jetzek in view of Schwarz.

No amendments to the claims have been made at this time.

Claim 1

The combination of Jetzek and Schwarz does not provide the invention according to claim 1, for the following reasons A to E below:

A. Paragraphs 0024, 0040 and 0075 of Schwarz read as follows:

[0024] Before adjusting the communication parameter in the adjusting step, preferably, information is detected which indicates the link quality of the second type network device in both cells (detecting step S1), and then an asymmetry parameter is evaluated, said asymmetry parameter indicating the imbalance of the link quality in the serving cells (evaluating step S2). On the basis of this asymmetry parameter, the transmission power of the second type network device in question is adjusted, if the asymmetry parameter exceeds a first threshold value.

[0040] detection means for detecting information, said information indicating the radio link quality of the radio links between the second type network device (MS) and the first type network device (BS1, BS2) of the overlapping stronger cell (C1) and weaker cell (C2), respectively

[0075] The uplink synchronization with the respective base station BS1, BS2 will be achieved and maintained if the base station can receive a strong enough transmission signal. The transmission power however, is controlled by the power control of the stronger air link, i.e. by that base station which receives the better signal.

There is no apparent disclosure nor teaching here of (something happening) “upon the determined signal path quality exceeding a first predetermined threshold but being less than a second predetermined threshold higher than the first threshold” as required by claim 1.

B. Schwarz paragraphs 0035-0044 read as follows:

[0035] In a preferred embodiment, the above object is also solved by a device for controlling the transmission power in an asymmetric soft handover condition of a mobile telecommunication network, including at least two cells (C1, C2) partly overlapping each other and participating in the soft handover.

[0036] each cell being served by a first type network device (BS1, BS2) adapted to service second type network devices (MS) in the respective cell,

[0037] a closed loop power control means controlling the transmission power of each second type network device in response to a comparison of the detected **SIR**-data (signal to interference ratio data) of its actual radio link, with a **SIR**-target value,

[0038] an outer loop power control means (OLPC) providing and actualizing the **SIR**-target value for the closed loop power control means,

[0039] radio links in the stronger cell (C1) of said cells requiring less transmission power and radio links in the weaker cell (C2) requiring more transmission power from the second type network device, the device comprising the following steps:

[0040] detection means for detecting information, said information indicating the radio link quality of the radio links between the second type network device (MS) and the first type network device ((BS1, BS2) of the overlapping stronger cell (C1) and the weaker cell (C2), respectively

[0041] evaluation means for evaluating a asymmetry parameter in the overlapping cell area on the basis of the information gained from the detecting means, said asymmetry parameter indicating the imbalance of the link quality in the overlapping stronger cell (C1) and weaker cell (C2),

[0042] additional control means for temporarily increasing the transmission power of said second type network device

[0043] if the asymmetry parameter evaluated by the evaluation means, exceeds a first threshold value, and

[0044] if the asymmetry parameter evaluated by the evaluation means, exceeds a first threshold value,

There is no disclosure or teaching here of “the mobile user terminal is connected to the corresponding base station antenna by control channels but not data channels so as to be time-synchronized” as required by claim 1.

C. Schwarz basically concerns control of transmission power from a mobile to ensure detection of the transmitted signals by both base stations; see for example its paragraphs 0085 to 0087 recited here for ease of reference:

[0085] In accordance with the invention, the procedure to automatically increase the transmission power of a mobile station **MS1** in soft handover includes a first step in which information is detected which indicates the radio link power budget of the radio links to the base station **BS1** of cell **C1** and to base station **BS2** of cell **C2**.

[0086] In a second step, this information is used to evaluate a radio link asymmetry parameter in the overlapping cell area. This parameter indicates

the imbalance of the radio links in the overlapping stronger cell and weaker cell.

[0087] In a third step, the transmission power of the mobile station **MS1** is temporarily increased if the asymmetry parameter exceeds a first threshold value, this power increase being such that the mobile reaches the base station of the weaker cell at a level which is sufficient to set up and maintain the uplink synchronization with the respective base station so that the soft handover will be performed.

Essentially, the idea of Schwarz is to make the transmission power of the mobile high enough to ensure soft handover call connection to both base stations. This is done by overriding the stronger-signal base station's normal power control in the event that the signal strength imbalance between the two base stations exceeds a threshold, in other words, the calculated asymmetry parameter is greater than a threshold value.

This is different to the present invention.

D. The Examiner states “Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to apply the teaching of Schwarz to Jetzek to provide a method for controlling the transmission power in a symmetric handover condition in a communication network”.

This statement does not explain what suggestion or motivation there was, either in the references themselves, in the knowledge generally available to one of ordinary skill in the art, to seek to combine the reference teachings (MPEP 2142).

Accordingly, it is submitted respectfully that what we understand to be an essential requirement of a *prima facie* case of obviousness (MPEP 2142), has not been made out by the Examiner.

E. Furthermore, the Examiner indicates the teaching of Schwarz was applied to Jetzek to “provide a method for controlling the transmission power in a symmetric handover condition in a communication network”. This alleged motivation is inapposite.

The present invention (in its embodiments) basically relates to allowing a mobile having a signal path quality to a base station that meets an acceptable threshold for a control channel connection, to make that connection so as to be time-synchronised; this is on the basis that data connection will also be established if and when the signal path quality improves to exceed another, stricter, threshold. Accordingly, it will be seen that the present invention is concerned with reducing delays due to effecting time synchronisation, rather than transmission power control.

Claims 2 to 6

Dependent claims 2 to 6 are patentable not least on the basis that they each depend on an allowable claim 1.

Claim 7

Claim 7 is an apparatus claim essentially corresponding in scope to method claim 1. The arguments in support of claim 1 apply in respect of claim 7 also, mutatis mutandis.

Claims 8 to 10

Dependent claims 8 to 10 are patentable not least on the basis that they each depend on an allowable claim 7.

Conclusion

In view of the foregoing, allowance of all the claims presently in the application is respectfully requested, as is passage to issuance of the application. If the Examiner should feel that the application is not yet in a condition for allowance and that a telephone interview would be useful, he is invited to contact Applicants' undersigned attorney at **973 386 8252.**

Respectfully submitted,

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